DETAILED ACTION

Claim Rejections - 35 USC § 101

1. Claims 1-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention appears to be directed to a computer program *per se* and does not contain any elements directed to computer hardware. The invention, therefore, does not define any structural or functional interrelationships between the computer program and other claimed elements of the computer which permit the computer program's functionality to be realized. (see MPEP 2106.01)

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,070,177 to Kao et al, hereinafter, Kao in view of US 7,369,651 to Brandt et al, hereinafter, Brandt, and in view of US 7,287,031 to Karpf et al, hereinafter, Karpf.

As per claim 1, Kao teaches the claimed **system for monitoring activity of at least one executable application, comprising:**

-**an input processor for receiving a message identifying an event representing activity performed by an executable application and containing data associated with said event** (see: column 9, lines 3-5);

-**an event processor for storing a record of said identified event and said event associated data in a record repository** (see: at least Figure 7, column 9, lines 29-42); and

-**an output processor for collating event associated data, retrieved from said record repository, for said selected particular events and for processing and formatting said collated event data for presentation to a user** (see: at least column 10, lines 2-7).

Kao fails to teach **said event associated data including a start and stop time of said event**. Brandt teaches data associated with a phone call (**event associated**) that includes the start time and stop time of the call (see: at least column 3, lines 14-15). It would have been obvious to one of ordinary skill in the art to include in the event associated, transaction or activity data of Kao, the start time and stop time data as taught by Brandt because the claimed invention is merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Kao fails to teach the claimed **monitoring processor for selecting particular events to use in monitoring a particular activity of said at least one executable application in response to a received command**. Karpf teaches an electronic compliance promoter that monitors a patient's usage of a treatment instruction database (i.e. activating the access application of the database) after checking a box (entering a command) (see: at least column 33, lines 59-63). It would have been obvious to one of ordinary skill in the art to include in the document activity auditing of Kao, the selectable monitoring of activity as taught by Karpf because the claimed invention is merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 2, Kao teaches the claimed **system, wherein said record repository associates an event with at least one of, (a) an action type identifier, (b) an action identifier, (c) a category identifier and (d) a client or user associated identifier, said action being performed by said executable application** (see: at least Figure 7, column 9, lines 29-42).

As per claim 3, Kao teaches the claimed **system, wherein said event associated data includes at least one of, (a) an application environment identifier, (b) a computer job identifier, (c) an identifier of an entity responsible for said event, (d) an identifier of a user responsible for said event, (e) an identifier of a type of client location requesting said event, (f) an identifier of a client location associated with requesting said event, (g) an indication of success or failure of said event, (h) an identifier of an object type acted upon in said event, (i) an identifier of a number of objects acted upon in said event and (j) an identifier of a**

datastream including data indicating objects acted upon in said event (see: at least Figure 7, column 9, lines 29-42).

As per claim 4, Karpf teaches the claimed **system, wherein**

-said monitoring processor selects particular events to use in monitoring a particular activity of said at least one executable application in response to received query criteria (see: at least column 33, lines 59-63); and

-Kao teaches **said output processor processes and formats said collated event data for presentation to a user in at least one of, (a) a displayed image and (b) a report** (see: at least column 10, lines 2-7). The rationale to combine these references is the same as set forth in claim 1.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,070,177 to Kao in view of US 7,369,651 to Brandt, and in view of US 7,287,031 to Karpf, and in view of US 2002/0019751 to Rothschild et al, hereinafter, Rothschild.

As per claim 5, Karpf and Kao fail to teach the claimed **system, wherein**

-said monitoring processor intermittently and automatically selects particular events to use in monitoring a particular activity of said at least one executable application in response to predetermined schedule information; and

-said output processor processes and formats said collated event data for presentation to a user in at least one of, (a) a displayed image and (b) a report, in response to, predetermined schedule information.

Rothschild teaches an automated polling system that polls for newly entered information at a central database on a preset schedule or periodic basis. It would have been obvious to one of ordinary skill in the art to include in the monitoring processor of Karpf and the output processor of Kao, the predetermined schedule as taught by Rothschild because the claimed invention is merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

4. Claims 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,070,177 to Kao in view of US 7,369,651 to Brandt, and in view of US 7,287,031 to Karpf and in view of US 5,867,821 to Ballantyne et al, hereinafter, Ballantyne.

As per claim 6, Kao and Karpf fail to teach the claimed **system, wherein said monitoring processor selects particular events to use in monitoring access to patient medical records in response to received query criteria**. Specifically, Kao and Karpf do not apply this monitoring system to patient medical records. Ballantyne teaches monitoring access to patient medical records (see: at least column 8, lines 52-60). It would have been obvious to one of ordinary skill in the art to apply the monitoring access to database forms of Kao, to patient medical records as taught by Ballantyne because the claimed invention is merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 7, Ballantyne teaches **a data access monitoring system for enabling access to patient medical record information by personnel of different organizations at different locations, comprising** (see: at least Figure 1, column 3, lines 60-67):

-**a security information store identifying patient record access authorization information for personnel of said different organizations** (see: column 8, lines 17-31);

-**an authorization processor for enabling access by an individual of one of said organizations to a patient medical record in response to authorization determined from said patient record access authorization information** (see: column 8, lines 17-31).

Ballantyne and Kao and Brandt teach **an input processor for receiving a message identifying an event associated with access by an individual of one of said organizations to a patient medical record and containing data associated with said event, said event associated data including a start and stop time of said event**. Ballantyne meets these limitations with the unique audit trail associated with a unique personal ID in (see also access to patient medical record in column 8, lines 52-60 and Kao's messages in column 9, lines 3-5 and Brandt's start and stop times in column 3, lines 14-15, as shown in claims 1 and 6). The reasons for combining these references are the same as set forth for claim 6.

Kao teaches **an event processor for storing a record of said identified event and said event associated data in a record repository** (see: at least Figure 7, column 9, lines 29-42); and

Ballantyne teaches **a monitoring processor for selecting particular events to use in monitoring access by said individual of one of said organizations to said patient medical record**. This limitation is met by the establishment of unique audit trails for each individual that monitors access (a particular event) to patient medical records in column 15, lines 16-21.

As per claim 8, Ballantyne teaches the claimed **system, including an output processor for collating event associated data, retrieved from said record repository, for said selected particular events and for processing and formatting said collated event data for presentation to a user** (see: column 8, lines 52-60).

As per claim 9, Ballantyne teaches the claimed **system, wherein said multiple organizations includes one or more organization types selected from (a) a hospital, (b) a physician group, (c) clinic, (d) a healthcare payer institution, (e) a healthcare provider institution, and (f) a hospital department** (see: Figure 1, column 3, lines 60-67).

As per claim 10, it is rejected for the same reasons set forth for claim 7.

As per claim 11, Ballantyne teaches the claimed **system, wherein said monitoring processor collates records of said selected particular events to provide an audit trail identifying for said individual of one of said organizations, (a) a user identifier, (b) an organization associated with said user, (c) a location of**

said organization associated with said user and (d) a patient record accessed (see: column 8, lines 43-60 and column 15, lines 16-21).

As per claim 12, it is rejected for the same reasons set forth for claim 7, specifically, the start and stop time as taught by Brandt.

5. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,070,177 to Kao in view of US 7,369,651 to Brandt, and in view of US 7,287,031 to Karpf and in view of US 5,867,821 to Ballantyne and in view of Examiner's Official Notice.

As per claim 13, Ballantyne fails to specifically teach the claimed **system, wherein said patient medical record includes, (a) patient clinical information, (b) patient billing or financial information, (c) medical referral information, (d) medical eligibility verification information, (e) medical necessity verification information and (f) medical procedure cost or reimbursement amount information**. Official Notice is taken that is was common and well known at the time of the invention to include in a patient medical record all these stated elements. For example, it is common practice to keep all financial and insurance related paperwork along with clinical information in a patient's medical record. It would have been obvious to one of ordinary skill in the art to include in the patient medical record of Ballantyne, the commonly included accounting and insurance records because the claimed invention is merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claims 14 and 15 are rejected for the same reasons set forth for claim 13.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANITA MOLINA whose telephone number is (571)270-3614. The examiner can normally be reached on Monday through Friday 8am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, C. Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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06/03/2008

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